

“(1) In the case of a partial withdrawal under section 4205 of the Employee Retirement Income Security Act of 1974 [this section], an employer who—

“(A) before December 13, 1979, had publicly announced the total cessation of covered operations at a facility in a State (and such cessation occurred within 12 months after the announcement),

“(B) had not been obligated to make contributions to the plan on behalf of the employees at such facility for more than 8 years before the discontinuance of contributions, and

“(C) after the discontinuance of contributions does not within 1 year after the date of the partial withdrawal perform work in the same State of the type for which contributions were previously required, shall be liable under such section with respect to such partial withdrawal in an amount not greater than the amount determined under paragraph (2).

“(2) The amount determined under this paragraph is the excess (if any) of—

“(A) the present value (on the withdrawal date) of the benefits under the plan which—

“(i) were vested on the withdrawal date (or, if earlier, at the time of separation from service with the employer at the facility),

“(ii) were accrued by employees who on December 13, 1979 (or, if earlier, at the time of separation from service with the employer at the facility), were employed at the facility, and

“(iii) are attributable to service with the withdrawing employer, over

“(B)(i) the sum of—

“(I) all employer contributions to the plan on behalf of employees at the facility before the withdrawal date,

“(II) interest (to the withdrawal date) on amounts described in subclause (I), and

“(III) \$100,000, reduced by

“(ii) the sum of—

“(I) the benefits paid under the plan on or before the withdrawal date with respect to former employees who separated from employment at the facility, and

“(II) interest (to the withdrawal date) on amounts described in subclause (I).

“(3) For purposes of paragraph (2)—

“(A) actuarial assumptions shall be those used in the last actuarial report completed before December 13, 1979,

“(B) the term ‘withdrawal date’ means the date on which the employer ceased work at the facility of the type for which contributions were previously required, and

“(C) the term ‘facility’ means the facility referred to in paragraph (1).”

**§ 1386. Adjustment for partial withdrawal; determination of amount; reduction for partial withdrawal liability; procedures applicable**

(a) The amount of an employer's liability for a partial withdrawal, before the application of sections 1399(c)(1) and 1405 of this title, is equal to the product of—

(1) the amount determined under section 1391 of this title, and adjusted under section 1389 of this title if appropriate, determined as if the employer had withdrawn from the plan in a complete withdrawal—

(A) on the date of the partial withdrawal, or

(B) in the case of a partial withdrawal described in section 1385(a)(1) of this title (relating to 70-percent contribution decline), on the last day of the first plan year in the 3-year testing period,

multiplied by

(2) a fraction which is 1 minus a fraction—

(A) the numerator of which is the employer's contribution base units for the plan year following the plan year in which the partial withdrawal occurs, and

(B) the denominator of which is the average of the employer's contribution base units for—

(i) except as provided in clause (ii), the 5 plan years immediately preceding the plan year in which the partial withdrawal occurs, or

(ii) in the case of a partial withdrawal described in section 1385(a)(1) of this title (relating to 70-percent contribution decline), the 5 plan years immediately preceding the beginning of the 3-year testing period.

(b)(1) In the case of an employer that has withdrawal liability for a partial withdrawal from a plan, any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent plan year shall be reduced by the amount of any partial withdrawal liability (reduced by any abatement or reduction of such liability) of the employer with respect to the plan for a previous plan year.

(2) The corporation shall prescribe such regulations as may be necessary to provide for proper adjustments in the reduction provided by paragraph (1) for—

(A) changes in unfunded vested benefits arising after the close of the prior year for which partial withdrawal liability was determined,

(B) changes in contribution base units occurring after the close of the prior year for which partial withdrawal liability was determined, and

(C) any other factors for which it determines adjustment to be appropriate,

so that the liability for any complete or partial withdrawal in any subsequent year (after the application of the reduction) properly reflects the employer's share of liability with respect to the plan.

(Pub. L. 93-406, title IV, § 4206, as added Pub. L. 96-364, title I, § 104(2), Sept. 26, 1980, 94 Stat. 1222.)

**§ 1387. Reduction or waiver of complete withdrawal liability; procedures and standards applicable**

(a) The corporation shall provide by regulation for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent that the corporation determines that reduction or waiver of withdrawal liability is consistent with the purposes of this chapter.

(b) The corporation shall prescribe by regulation a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from the plan subsequently resumes covered operations or renews an obliga-